GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

MA&UD Department - Ordinary Elections to the Urban Local Bodies - Conduct of Government Servants - Orders — Issued.

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MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (G) DEPARTMENT

G.O.Rt.No.72 Dated:22.02.2021

Read:-

From the Secretary, A.P., State Election Commission, Vijayawada, Lr.No.578/SEC-F1/2021-3, dt15.02.2021.

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ORDER:

The Government desire to impress on all Government Servants that Sub-rule (5) and (6) of Rule 19 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964, which are reproduced below, define the position of Government Servants in relation to elections to the State and Central Legislatures and Urban Local Bodies.

"19(5) No Government employee shall canvass or otherwise interfere or use his influence, in connection with, or take part in an election to parliament or any House of a State Legislature or any local authority or body, Provided that…….

i. A Government employee qualified to vote at such election may cast his vote but, where he does so, he shall give no indication of the manner in which he proposes to vote or has voted.
ii. A Government employee shall not be deemed to have contravened the provisions of the Rule by reason only that he has assisted in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

(Contd…2)

iii. The display by a government employee on his person, vehicle, residence or any of his property, of any election symbol shall amount to using his influence in connection with a election the meeting the meaning of sub-rule(5)".

2. It is the duty of the Government Servants to be scrupulously impartial in the discharge of their duties in connection with elections. Besides being strictly impartial, they should conduct themselves in such a manner as to inspire confidence in the public in regard to their impartiality and to give no room for suspicion on any account that they are favoring any party or candidate. The Government servants should not take part in any election campaign or in canvassing or attending political meetings or rallies and they should take scrupulous care not to lend their names, official position or authority to assist any group, party or person, except exercising their right to vote in accordance with election to the Urban Local Bodies must be confined to the conscientious and diligent discharge of any election duties which may be entrusted.

3. No Government Servant should act as an election agent, or an agent of any candidate at an election. In this connection, they are invited to section 343-M, 343-N, 343-Q of A.P. Municipalities Act, 1965 and section 610, 612 and 607 of the Municipal Corporations Act, 1955 which are extracted below:

A.P. MUNICIPALITIES ACT , 1965 PROVISIONS:

Section 343-M: Breaches of official duty in connection with elections:-

1. If any person to whom, this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine, which may extend to five hundred rupees.
2. An offence punishable under sub-section (1) shall be cognizable.
3. No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(Contd…3)

4. The persons to whom this section applies are the District Election Officers, Election Officers, Assistant Election Officers, Polling Officers, and any their person appointed to perform any duty in connection with the receipt of nominations or withdrawals of candidatures, or the recording or counting of votes at an election and the expression "official duty" shall for the purposes of this section be constructed accordingly but shall not include duties imposed otherwise than by or under this Act.

Section 343-N: Penalty for Government Servants etc., for acting as election agent, polling agent or counting agent:-

If any person in the service of the State or Central Government or a Local Authority or a Corporation owned or controlled by the State or Central Government acts as an election agent of a candidate at an election he shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

Section 343-Q: Offence of booth capturing:-

1. Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which extend to five years and with fine.

Explanation:- For the purpose of this sub-section and Section 343-ZE "booth capturing" includes, among other things, all or any of the following activities, namely:-

a. seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

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b. taking possession of polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote;

c. Coercing or intimidating or threatening directly or indirectly threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

d. seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

e. doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the election of a candidate.

2. An offence punishable under sub-section (1) shall be cognizable.

THE MUNICIPAL CORPORATIONS ACT, 1955 PROVISIONS:

Section 610: Breaches of official duty in connection with elections:-

1. If any person to whom, this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine, which may extend to five hundred rupees.
2. An offence punishable under sub-section (1) shall be cognizable.
3. No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.
4. The persons to whom this section applies are the District Election Officers, Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawals of candidatures, or the

(Contd…5)

recording or counting of votes at an election and the expression "official duty" shall for the purposes of this section be construed accordingly but shall not include duties imposed otherwise than by or under this Act.

Section 612: Penalties for offences not otherwise provided for:-

Whoever does any act in contravention of any of the provisions of this Act, or for any rule, notification or order made, issued or passed, there under and not otherwise provided for in this Act shall, on conviction be punished with imprisonment which may extend to two years or and with fine which may extend to two thousand rupees or with both.

Section 607: Penalty for illegal hiring or procuring of conveyance at elections:-

If any person is guilty of any such corrupt practice as is specified in sub- section (7) of section 17 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine.

Section 607-A: Penalty for Government Servants etc. for acting as election agent, polling agent or counting agent:-

If any person in the service of the State or Central Government or a Local Authority or a Corporation owned or controlled by the State or Central Government acts as an election agent of a candidate at an election held under this Act, he shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

Section 607-B: Prohibition of going armed to or near a polling station:

(1) No person other than the Returning Officer, any Police Officer and any other person appointed to maintain peace and order, at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959, of any kind within the neighborhood of a polling station.

(Contd…6)

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) An offence punishable under sub-section (2) shall be cognizable.

Section 607-B: Office of booth capturing:

(1) Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

Explanation:- For the purpose of this sub-section and Section 617-D "booth capturing" includes, among other things, all or any of the following activities, namely:-

a. seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;
b. taking possession of polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote;
c. Coercing or intimidating or threatening directly or indirectly threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
d. seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
e. doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of election of a candidate.

(Contd…7)

(2) An offence punishable under sub-section (1) shall be cognizable.

4. Various parties etc., may apply for permission to hold election meetings in a public place and while granting permission for such meetings, no distinction should be made between one political party and another and if more parties than one apply for permission to hold a meeting at the same place on the same day and at the same hour, only the party which has applied first should be allowed to hold the meeting.

5. The Government, direct that the provisions of the Municipalities Act, 1965, Municipal Corporations Acts and Andhra Pradesh Civil Services (Conduct) Rules, 1964 should be strictly followed by all the Government servants. The Government however, wish to assure the Government servants of all ranks that, so long as they discharge their duties impartially and in accordance with the law and instructions issued by the Government, they will be fully protected by the Government and no victimization aced be apprehended.

6. The District Collectors are requested to communicate these instructions to the Government servants of all grades of various offices in the District.

7. The receipt of the Government order should be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ADITYA NATH DAS
CHIEF SECRETARY TO GOVERNMENT

To
All District Collectors in the State.
The Commissioner and Director of Municipal Administration, A.P., Guntur.
All the Municipal Commissioners of Urban Local Bodies in the State.
Copy to:
The Secretary, State Election Commission, Vijayawada.
All Departments of Secretariat.

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All Heads of the Departments
All Revenue Divisional Officers in the State.
The P.S. to Chief Secretary to Government.
The P.S. to Principal Secretary to Government (MA)
SF/SC

//FORWARDED :: BY ORDER//

SECTION OFFICER